

Testimony of Chief Judge William C. Whitbeck
Michigan Court of Appeals
House Committee on Family and Children Services
May 3, 2006

Thank you for the opportunity to present written testimony on HB 5699-5703. Although I have not had an opportunity to review each of these bills in any detail, I thought the Committee might be interested in my general comments, set out below. These comments were contained in an op-ed piece that I wrote recently for the *Lansing State Journal*.

The Children Are Waiting

The problem of broken families should frighten anyone who is concerned about children and our state's future. We are moving—indeed, we have moved—from a culture of marriage to a culture of divorce and one-night stands. Families are fragmenting and are turning for help to our courts in huge numbers. From our vantage point on the bench, we see the dire results and they shock us. No judge, however compassionate and wise, can hope to heal a child who lacks a stable and loving home. No court system, no matter how well run, can cure the underlying social trends that menace our children and our future.

In the information age, statistics overwhelm us. Occasionally, however, we can make some sense out of the data by which we are constantly assailed. Consider the following data about family cases in our judicial system; these data have remained fairly constant over time and do not appear to be particularly affected by the state's economic situation:

- In 2004, 223,499 new family cases were filed in Michigan's family courts, accounting for *almost 67 percent of all circuit court level filings*.
- Divorcing couples with children filed 26,761 *new cases* in 2004.
- Over 800,000 support cases are in Friend of the Court offices. These cases account for roughly 2.5 million people, about *one-quarter* of the population of Michigan.
- In 2004, there were 15,558 new paternity cases. *Nearly half* of these child support cases are also paternity cases. In other words, these are cases in which the mother sought a support order *and* a court had to determine who the child's father was.
- The number of appeals to the Michigan Court of Appeals from lower court decisions terminating parental rights has grown steadily; over the last ten years, this number has increased by *almost 73 percent*.

These data tell us that our judicial system is changing before our very eyes. Classically, courts conducted civil and criminal trials. Increasingly, however, the judicial system now deals with cases involving broken families. We should be very clear on one point: while trial and appellate judges can *decide* such cases, we cannot and do not *resolve* the issues that bring these families into our courts in the first place.

Of course, our courts are not helpless in the face of this onslaught. For example, a joint Supreme Court/Court of Appeals work group on delays in dependency appeals—those appeals that involve termination of parental rights or a dispute over child custody—pointed out that in 2001, on average, the Court of Appeals disposed of such appeals within 325 days of filing. We have now cut

that time to 206 days, *a reduction of fully 36 percent*. While this is certainly progress, ultimately the judicial system can only do so much. Our society as a whole must address the underlying trends that send so many Michigan families into the legal system . . . and the children are waiting.